



**OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS**

ANITA ALVAREZ
STATE'S ATTORNEY

CRIMINAL PROSECUTIONS BUREAU
2650 SOUTH CALIFORNIA AVE.
CHICAGO, ILLINOIS 60608

To: All Supervisors, Criminal Prosecutions Bureau

From: Joe Magats, Deputy Chief, Criminal Prosecutions Bureau

Re: Indian Head Park Police Sergeant James Clendening

Date: April 5, 2016

Cc: Dan Kirk, First Assistant

Walt Hehner, Chief Deputy

Garvin Ambrose, Chief of Staff

Fabio Valentini, Chief, Criminal Prosecutions Bureau

Mike Golden, Chief, Special Prosecutions Bureau

Tisa Morris, Chief, Juvenile Justice Bureau

Brian Sexton, Chief, Narcotics Prosecutions Bureau

Donald Pechous, Acting Chief, Civil Actions Bureau

The Indian Head Park Police Department has provided notice to the office that in 1999 Indian Head Park Police Sergeant James Clendening was found in violation of the Indian Head Park Police Department rule against falsifying official reports and in 1990 he was also found in violation of the Indian Head Park Police rule against deliberately falsifying official documents.

As you are well aware, pursuant to Brady v. Maryland, 373 US 83 (1963), the prosecution's disclosure of exculpatory information is part of the constitutional right to a fair trial. This duty of disclosure also includes evidence that may impeach the credibility of a prosecution witness. Giglio v. United States, 405 U.S. 150, 154 (1972). The Indian Head Park Police Department's findings fall squarely under the type of disclosure required under Giglio.

If you or any of the assistants that you supervise have a case where Sergeant Clendening is listed as a potential witness on our answer to discovery, the findings of the Indian Head Park Police Department must be disclosed to the defense prior to trial. The MIS Department is doing a computer search to see whether the officer is a witness on any pending felony cases. Once I have the results of that search, I will forward them to each of you. Please don't call MIS to have another list run. Units that do not have a computer case management system will have to check their files to determine whether Sergeant Clendening is a witness on any pending cases.

If you or the assistants that you supervise have a case where any of the above officers is listed as a witness, please tender to the defense the attached Notice of Disclosure prior to trial. None of the ASAs that you supervise are to file the notice without your prior knowledge and specific approval. An electronic copy of the Notice of Disclosure will be sent to you.

Also please remind your ASAs that the mere fact that this Giglio material is discoverable and has been tendered to the defense does not in and of itself mean that the defense can introduce the evidence at trial or cross-examine any of the officers on the material. The ASAs should, in the appropriate cases, file all necessary motions to preclude the use of the Giglio material at trial.

The case law in this area is, of course, set out in United States v. Brady, 373 U.S. 83 (1963) and Giglio v. United States, 405 U.S. 150 (1972). The timing of disclosure is governed by Weatherford v. Bursey, 429 U.S. 545 (1997). What needs to be disclosed is discussed in United States v. Agurs, 427 U.S. 97 (1976); United States v. Diaz, 922 F.2d (2nd Cir. 1990); United States v. Veras, 51 F.3d 1365 (7th Cir. 1995) and United States v. Kiszewski, 877 F.2d 210 (2nd Cir. 1989). Limiting the use of this type of information is discussed in People v. Driskell, 213 Ill.App.3d 196 (4th Dist. 1991) and People v. Fonza, 217 Ill.App.3d 883, 892 (1st Dist. 1991).

If you or your ASAs have any questions, please call me. Thank you.

SS.

PEOPLE OF THE STATE OF ILLINOIS

VS

Case No. _____

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1. That in 1990 the Indian Head Park police Department found Sergeant James Clendening, in violation of its rule against falsifying official reports.
2. That in 1999 the Indian Head Park police Department found Sergeant James Clendening, in violation of its rule against deliberately falsifying official documents.
3. That Sergeant James Clendening is listed as a witness for the prosecution in the above-captioned case.

Anita Alvarez
State's Attorney of Cook County

By:

Assistant State's Attorney